

REMARKS

Claims 1 through 59, 64 through 116 and 120 through 122 are pending; claims 117 and 118 are cancelled while claim 121 is newly added. Claims 1 through 25 are amended in several particulars, to shift the subject matter defined by the pending claims, in view of the allowance of Applicant's co-pending U.S. patent application directed to the elected subject matter, to the non-elected subject matter defined by Figs. 1 through 7 and 9 through 12. Generally, the independent claims are generic to all of the embodiments illustrated by these figures.

Canceled
6/12/03

Previously allowed claims 117 and 118, directed to the subject matter set forth in Applicant's co-pending, allowed application, have been cancelled. In view of the recent completion of the prosecution of the co-pending application, Applicant believes that it will be necessary to further examine several of the remaining independent claims and to possibly amend those claims to focus upon the previously non-elected subject matter. The shortness of time between the allowance of the co-pending application and the expiration of the six month statutory period for response to the Office action of 27 August 2002, has unfortunately shortened the time for the completion of the shift in the subject matter of the pending claims. Additionally, Applicant expects to cancel the copied claims directed to the interference, simultaneously with the filing of a continuing application presenting only the interfering claims.

Rejection/Restriction

In view of the kindness of the Examiner in permitting Applicant to shift the prosecution to the previously non-elected subject matter, examination of claims 32, 33, 43-45, 73 and 94 is deemed

to be proper. Applicant notes that parent independent claims 1 and 15 have been amended to define the previously non-elected subject matter.

Rejection of Claims 90 and 120 under 35 U.S.C. §112

Claims 90 and 120 were rejected under the first paragraph of 35 U.S.C. §112 as containing subject matter not described in the specification “in such a way as to enable one skilled in the art ... to make and/or use the invention.” The Examiner asserts that the specification “fails to provide support for the *at least one electromechanical locking member* and Applicant’s *plurality of electromechanical locking members* set forth in claims 90 and 120, respectively. Applicant respectfully traverses this rejection for the following reasons.

Figure 1 clearly illustrates a plurality of electromechanical locking members 106a, 107a and 108a and an equal number of radio cylindrical openings 80, 82 within the plug. As described in Applicant’s specification at page 21, lines 13 and 14.

Page 21, lines 8-11 of the original specification, which expressly states that:

“In a particular practice, the diameter of one of pin cylinders 80, 82 may not be sufficiently wide to accommodate a particular solenoid and will require reboring of the cylinder. The rebored plug can still be retrofitted into an already installed cylinder however, without the necessity of removing cylinder 102.”

This, in conjunction with the array of cylinders illustrated by Figure 1 in conjunction with the equal array of a plurality of solenoids 106b-108b, clearly contemplates the plurality defined by claims 90 and 120.

Moreover, referring again to page 21, lines 12-16 also contemplate the plurality of solenoid

coils 109b, in the construction of a lock modified:

"by radially boring one or more aligned apertures 102w, 101w through cylinder 102 and into plug 101 to accommodate reciprocal passage of either one, or and an array of blocking armatures 109a. Power for solenoid coils 109b . . ."

This expressly contemplates more than one of the "solenoid coils 109b." In view of this express demonstration of Applicant's contemplation of either one or several electromechanical structures, as well as the express written description of such practice, the rejection is improper and should be withdrawn.

Rejection of claims 1-21, 34-38, 70-74, 105, 106 and 111 under 37 C.F.R. § 112

Claims 1-21, 34-38, 70-74, 105, 106 and 111 were rejected under the second paragraph of 35 U.S.C. § 112 as possibly indefinite. Applicant has amended some of these claims to incorporate suggestions made by the Examiner. The Examiner has additionally inserted that the proposition *via* is indefinite. The Examiner has apparently confused the proposition with a noun. Neither longstanding U.S. patent practice nor the *Manual of Patent Examining Procedure* considers the proposition to be indefinite. Accordingly, reconsideration and withdrawal of this rejection premised upon Applicant's use of the proposition, is respectfully requested.

Double Patenting

Claims 1-26, 28-30, 32, 65-69, 75, 78-81, 83-85, 89, 92-104, 106 and 112 were provisionally

rejected under the doctrine of obviousness-type double patenting. In view of the allowance of all remaining claims in the Applicant's co-pending application Serial No. 10/061,202, and the shift of the pending claims to the previously non-elected subject matter, this rejection must be withdrawn. The allowed co-pending application was filed pursuant to 35 U.S.C. §121 "as a result of such a requirement" for restriction, and citation of that reference is impermissible under the statute. The Commissioner has no authority to modify the provision set forth in the statute.

Rejection under 35 U.S.C. § 103

Claims 25-31, 39-42, 46-52, 54-56, 64, 70, 76, 77, 82, 85, 88-91, 105, 107-109, 111, 113-116 and 120 were rejected under 35 U.S.C. § 103(a) as rendered obvious over a proposed combination of Gokcebay U.S. Patent No. 5,552,777 modified according to Thordmark U.S. Patent No. 5,542,274 and Neveda U.S. Patent No. 4,416,127. In view of the shift of the subject matter of the pending claims, this rejection is moot.

By way of example, independent claims 1, 15 and 25, as representative claims, define a detent that is "stationary" or a detent that is embraced by the distal member of Applicant's electrical operator. The Examiner's proposed combination contains no stationary detent; moreover, the Examiner's proposed combination has no detent extending from the cylinder shell and into the plug, that is embraced by the electrical operator. As illustrated in Figures 1 through 7 and 9 through 12, this structure advantageously provides a plurality of different locking mechanisms, including mechanisms that might be left in a partially locked state as well as mechanisms that may be set to

operate independent of one another, as well as mechanisms that might be operated in concert. These advantages must be considered in determining the obviousness *vel non* of the pending claims.

In view of the foregoing amendments and remarks, this application is deemed to be in condition for allowance, pending review of the remaining claims to show that these claims are directed to the previously non-elected subject matter.

A fee of \$465.00 (**SMALL ENTITY**) is incurred by the filing of a Petition for a three-month extension of time. Applicant's check drawn to the order of Commissioner accompanies this response. Should the check become lost, should other fees be incurred, the Commissioner is authorized to charge Deposit Account No. 02-4943 of Applicant's undersigned attorney in the amount of such fees.

Respectfully submitted,



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